

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:20-cv-00250-MR-WCM**

**JAMIE ALLEN, MELANIE DYER, NATHAN)
DAVENPORT, KATRINA LEDFORD,)
AMANDA TIMPSON, SAMANTHA TORRES,)
JESSICA FARQUHAR, JEREMY SILVERS,)
LIBBY HELMS, TESSA DORSEY, STEPHEN)
DOWNEY, SHERRY GARLAND, REGINA)
MANEY, TIENDA ROSE PHILLIPS,)
STEPHEN ASHE, SARAH CRAPSE,)
KELLEY WALKER, SHEENA DOCKERY,)
CAINE BURNETTE, DESIREE REILLY,)
SHALEES GREENLEE, DESEAN AMIR)
PATTERSON, MARTHA KILLIAN,)
DESMOND CHAMPAGNE, HANNAH ALLEN,))
PATRICIA SIMONDS, P. A., by and through)
the guardian ad litem, Joy McIver, G.A., by)
and through the guardian ad litem, Joy McIver,))
J.A., by and through the guardian ad litem,)
Joy McIver, M.D., by and through the guardian)
ad litem, Joy McIver, C.D., by and through the)
guardian ad litem, Joy McIver, K.D., by and)
through the guardian ad litem, Joy McIver,)
C.A., by and through the guardian ad litem,)
Joy McIver, L.T., by and through the guardian)
ad litem, Joy McIver, A.D., by and through the)
guardian ad litem, Joy McIver, M.C., by and)
through the guardian ad litem, Joy McIver,)
A.C., by and through the guardian ad litem,)
Joy McIver, J.S., by and through the guardian)
ad litem, Joy McIver, S.W., by and through the)
guardian ad litem, Joy McIver, V.W., by and)
through the guardian ad litem, Joy McIver,)
J.D., by and through the guardian ad litem,)
Joy McIver, A.R., by and through the guardian)
ad litem, Joy McIver, J.B., by and through the)
guardian ad litem, Joy McIver, D.S., by and)
through the guardian ad litem, Joy McIver,)**

ORDER

A.H., by and through the guardian ad litem,)
Joy McIver, J.H., by and through the guardian)
ad litem, Joy McIver, C.L., by and through the)
guardian ad litem, Joy McIver, K.L., by and)
through the guardian ad litem, Joy McIver,)
L.R., by and through the guardian ad litem,)
Joy McIver, Z.A., by and through the guardian)
ad litem, Joy McIver, E.M., by and through the)
guardian ad litem, Joy McIver, P.M., by and)
through the guardian ad litem, Joy McIver,)
Z.B., by and through the guardian ad litem,)
Joy McIver, A.B., by and through the)
guardian ad litem, Joy McIver, T.P., by and)
through the guardian ad litem, Joy McIver,)
Da.P., by and through the guardian ad litem,)
Joy McIver, De.P., by and through the)
guardian ad litem, Joy McIver, B.S., by and)
through the guardian ad litem, Joy McIver,)
Dam.W., by and through the guardian ad)
litem, Joy McIver, Dar.W., by and through the)
guardian ad litem, Joy McIver, ERNIE)
CARTER, CHEYENNE SPICOLA, J.G., by)
and through the guardian ad litem, Joy)
McIver, T.G., by and through the guardian)
ad litem, Joy McIver, K.C., by and through the)
guardian ad litem, Joy McIver, M.C., by and)
through the guardian ad litem, Joy McIver,)

Plaintiffs,)

v.)

CHEROKEE COUNTY, NC)
SCOTT LINDSAY, in his official capacity as)
DSS Attorney for Cherokee County,)
SCOTT LINDSAY, in his individual capacity,)
CINDY PALMER, in her official capacity)
as Director of DSS in Cherokee County,)
CINDY PALMER, in her individual capacity,)
DONNA CRAWFORD, in her official capacity)
As Director of DSS for Cherokee County,)

LISA DAVIS, in her official capacity of
Director of Cherokee County Department
of Social Services,

Defendants.

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This matter is before the Court on the Motion to Dismiss filed by Defendants Cherokee County, Scott Lindsay in his official and individual capacity, Cindy Palmer in her official and individual capacity, Donna Crawford in her official capacity, and Lisa Davis in her official capacity (the “Motion to Dismiss,” Doc. 2) and the Motion to Sever for Improper Joinder Pursuant to Rules 20 and 21 filed by Defendants Cherokee County, Scott Lindsay in his official and individual capacity, Cindy Palmer in her official and individual capacity, Donna Crawford in her official capacity, and Lisa Davis in her official capacity (the “Motion to Sever,” Doc. 5).

The Motion to Dismiss, which seeks dismissal of certain claims pursuant to Federal Rule of Civil Procedure 12(b)(6), was filed on September 18, 2020. Doc. 2. The Motion to Sever was filed that same day. Doc. 5. The Movants ask that the “Court address the Defendants’ motion to dismiss prior to ruling on this motion to sever....” Doc. 6, p. 2.

On October 2, 2020, Plaintiffs filed a Second Amended Complaint with the consent of Defendants pursuant to FRCP 15(a)(2). Doc. 9.

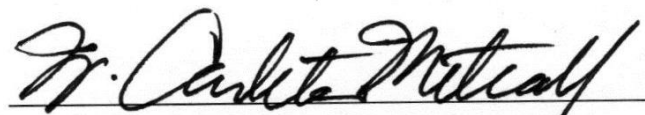
“It is well-settled that a timely filed amended pleading supersedes the

original pleading, and that motions directed at superseded pleadings are to be denied as moot.” State Farm Fire and Cas. Co. v. Kudasz, 3:10-cv-545-RJC-DCK, 2011 WL 1830399, at * 1 (W.D.N.C. May 12, 2011) (citing Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); Colin v. Marconi Commerce Sys. Employees’ Retirement Plan, 335 F.Supp.2d 590, 614 (M.D.N.C. 2004) (defendants’ earlier motion for summary judgment as to one count of first amended complaint rendered moot by filing of plaintiff’s second amended complaint); Turner v. Kight, 192 F.Supp.2d 391, 397 (D.Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).

IT IS THEREFORE ORDERED that:

1. The Motion to Dismiss (Doc. 2) is **DENIED AS MOOT**.
2. The Motion to Sever for Improper Joinder Pursuant to Rules 20 and 21 (Doc. 5) is **DENIED AS MOOT**.

Signed: October 8, 2020



W. Carleton Metcalf
United States Magistrate Judge

